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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,476	12/23/2003	Jong-Goo Lee	678-1264	9615
66547 7590 06/01/2009 THE FARRELL LAW FIRM, LLP 290 Broadhollow Road Suite 210E Melville, NY 11747				
EXAMINER THERIAULT, STEVEN B				
ART UNIT		PAPER NUMBER		
2179				
MAIL DATE		DELIVERY MODE		
06/01/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: JONG-GOO LEE, EYAL TOLEDANO, NATAN LINDER,
YARIV EISENBERG, AND RAN BEN-YAIR

Application No. 10/743,476
Technology Center 2100

Mailed: May 29, 2009

Before ERIC W. HAWTHORNE, *Supervisory Paralegal Specialist*
HAWTHORNE, *Supervisory Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on April 21, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

PRIOR ORDER FOR RETURN

A prior “Order Returning Undocketed Appeal to Examiner” was mailed on April 8, 2009 wherein the Examiner was instructed that corrections were required. A review of the file finds that the required corrections have not been made or have not been made in entirety. The matters still requiring attention prior to docketing are identified below.

EXAMINER’S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed on December 8, 2008, in response to the Examiner’s Answer mailed October 7, 2008.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner’s answer responding to any new issue raised in the reply brief.

The Communication mailed April 20, 2009, was an improper acknowledgment of the Reply Brief, as it constitutes a Supplemental Examiner’s Answer as per MPEP§ 1208, part II. A Supplemental Examiner’s Answers requires a Director or designees approval.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) vacate the Communication mailed April 20, 2009;
- 2) generate and mail either:

a) a revised Communication properly acknowledging to the Reply Brief dated December 8, 2009 in accordance with MPEP§ 1208, part II;

OR

b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate, and;

3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

EWB/nhl

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